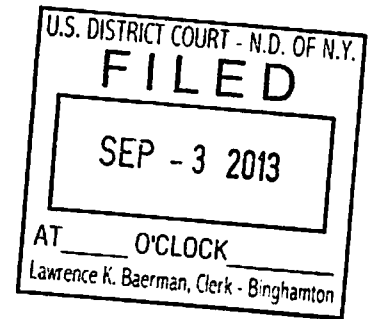


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



Z.C., infant(s) by the Parent(s) and Natural
Guardian(s), Gary Carpenter,

Plaintiffs,

vs.

Civil Action No.
6:11-cv-01504-TJM-ATB

Wal-Mart Stores, Inc., Daisy Manufacturing Company,
Inc., d/b/a Daisy Outdoor Products,

Defendants.

Wal-Mart Stores, Inc., Daisy Manufacturing Company,
Inc., d/b/a Daisy Outdoor Products,

Third-Party Plaintiffs

vs.

Gary Carpenter, Individually

Third-Party Defendant

**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND
DENYING THIRD-PARTY DEFENDANT'S CROSS-MOTION FOR SUMMARY
JUDGMENT DISMISSING THE THIRD-PARTY COMPLAINT**

Upon the motion by Daisy Manufacturing Company, Inc., d/b/a Daisy Outdoor Products and Wal-Mart Stores, Inc. ("Defendants") for summary judgment pursuant to Fed. R. Civ. P. 56 dismissing Plaintiff's Complaint in its entirety (Docket No. 37), and upon the opposition by Plaintiff, Z.C., Infant, by the parent and natural guardian, Gary Carpenter, to the motion for summary judgment together with Third-Party Defendant Gary Carpenter's cross-motion for summary judgment dismissing the Third-Party Complaint (Docket No. 42), and upon Defendants' reply in further support of their motion for summary judgment dismissing Plaintiff's

Complaint and in opposition to Third-Party Defendant's cross-motion for summary judgment dismissing the Third-Party Complaint (Docket No. 43), and the Court having heard oral argument on Defendants' motion and Third-Party Defendant's cross-motion, and the Court having issued an oral decision on the motions at the close of oral argument, which is hereby incorporated by reference, it is hereby

ORDERED, that the motion by defendants Daisy Manufacturing Company, Inc., d/b/a Daisy Outdoor Products and Wal-Mart Stores, Inc. for summary judgment seeking dismissal of Plaintiff's negligence, strict products liability, and warranty claims is hereby granted; and it is further;

ORDERED, that Plaintiff's Complaint is hereby dismissed in its entirety with prejudice as against Defendants Daisy Manufacturing Company, Inc., d/b/a Daisy Outdoor Products and Wal-Mart Stores, Inc., and it is further;


ORDERED, that Third-Party Defendant Gary Carpenter's cross-motion for summary judgment dismissing the Third-Party Complaint is denied as moot; and it is further;

ORDERED, that the Third-Party Complaint brought by Daisy Manufacturing Company, Inc., d/b/a Daisy Outdoor Products and Wal-Mart Stores, Inc. against Third-Party Defendant Gary Carpenter is hereby dismissed as moot.

IT IS SO ORDERED.

Dated: ~~August~~ ^{Sept} 3, 2013
Albany, New York

Binghamton


Thomas J. McAvoy
Senior U.S. District Court Judge